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OFFICE OF PETITIONS

In re Application of :
Dewayne Turner et al :
Application No. 10/788,833 : **DECISION DISMISSING PETITION**
Filed: February 27, 2004 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 020569-05007 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 22, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

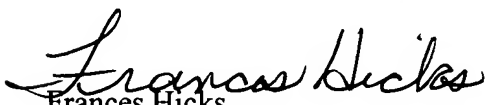
Unfortunately, the petition was not received within sufficient time to effect the withdrawal of this application from issue prior to the scheduled issue date of December 26, 2006. Therefore, as the case has now issued, the petition to withdraw from issue cannot now be granted.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$790 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions